

FILED

IN THE UNITED STATES COURT OF APPEALS FEB - 4 2016
FOR THE FIFTH CIRCUIT

No. 15-50399
USDC No. 5:14-CV-852-DAE ✓



A True Copy
Certified order issued Feb 04, 2016

DAN GRANDBERRY,

John W. Cayce
Clerk, U.S. Court of Appeals, Fifth Circuit

Petitioner-Appellant

v.

WILLIAM STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION,

Respondent-Appellee

Appeal from the United States District Court for the
Western District of Texas, San Antonio

O R D E R:

A jury convicted Dan Grandberry, Texas prisoner #1685729, of two counts of aggravated sexual assault of a child and two counts of indecency with a child. He now moves this court for a certificate of appealability (COA) so that he may appeal the district court's decision to dismiss as time barred and deny as meritless his 28 U.S.C. § 2254 application.

This court will grant Grandberry a COA if he makes "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2); *Miller-El v. Cockrell*, 537 U.S. 322, 336 (2003). That is, he must establish that reasonable jurists would find the decision to deny relief debatable or wrong, *see Slack v. McDaniel*, 529 U.S. 473, 483-84 (2000), or that the issue he

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presents deserves encouragement to proceed further, *see Miller-El*, 537 U.S. at 327. Grandberry has not shown that reasonable jurists would debate the district court's decision that his application is time barred. Accordingly, his motion for a COA is DENIED.



EDWARD C. PRADO
UNITED STATES CIRCUIT JUDGE